

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KERR CORPORATION,

Plaintiff,

Vs.

THE FREEMAN MANUFACTURING &
SUPPLY COMPANY,

Defendant.

Case No. 1:05cv0621

Judge Ann Aldrich

[PROPOSED] FINAL JUDGMENT

DECISION BY THE COURT. This action came under consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDICATED as follows:

1. In view of the stipulation that use by defendant Freeman Manufacturing & Supply Company ("Freeman") of the marks "Tuf Guy," "Tuf Guy Green," "Tuf-Guy," and/or "Tuf-Guy Green" in connection with jewelry injection waxes does not infringe any trademark or other proprietary rights of Kerr Corporation ("Kerr") in the "Tuffy Green" mark, if any, and the Court's Memorandum and Order dated August 14, 2007 granting summary judgment to Freeman on counts III and V-VIII of Kerr's Complaint, the Court hereby enters an appealable final judgment for Freeman on all Counts of Kerr's Complaint, Counts I-VIII;
2. The Court's Order entered February 25, 2008 (Doc. No. 68), is hereby vacated;
3. United States Registration No. 2,422,329 for the mark "FLAKES" is hereby ordered to be cancelled;
4. In view of the parties consent to entry of a permanent injunction with respect to Freeman's Counterclaims, and pursuant to Fed. R. Civ. P. 65, Kerr, its parents, subsidiaries, shareholders, officers, agents, employees, sales representatives, distributors, successors and

assigns, and any and all persons or entities acting at, through, under or in active concert or participation with or under the authority of any of them, are hereby permanently enjoined from using the phrase, either orally or in writing, "the same high quality formulas you know" in connection with Kerr's jewelry injection waxes;

5. Freeman's Counterclaims are hereby dismissed with prejudice; and

6. The parties shall have the same right of appeal they would have had if a final judgment had been entered following either a dispositive ruling by the Court or a jury verdict.

Each party is to bear its own costs.

IT IS SO ORDERED

DATED this 10 day of March, 2008.

s/Ann Aldrich
United States District Judge